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Part IV

Environmental Protection Agency

Electroplating Pretreatment Standards; Denial of Petition for Reconsideration

ENVIRONMENTAL PROTECTION AGENCY

[EN FRL 1671-4]

Electroplating Pretreatment Standards; Denial of Petition for Reconsideration

AGENCY: Environmental Protection Agency.

ACTION: Denial of petition for reconsideration.

SUMMARY: On May 15, 1980, Ford Motor Company (Ford) filed a petition under the Administrative Procedure Act, 5 U.S.C. 553(e). Ford requested that EPA reconsider the applicability of the Electroplating Pretreatment Standards for Existing Sources (40 CFR Part 413) to intergrated facilities with combined wastestreams. Ford specifically requested that EPA either a separate industrial category for automotive manufacturing or reopen the rulemaking for comment on the proper applicability of the electroplating standards in light of the Agency's combined wastestream formula contained in the General Pretreatment Regulations, 40 CFR 403.6(e). The Administrator has denied this Petition. The Administrator's Decision appears below.

FOR FURTHER INFORMATION CONTACT: Ellen Maldonado, Attorney, Water & Solid Waste Divison (A-131), Office of General Counsel, 401 M St. SW., Washington, D.C. 20460, (202) 472-7818.

SUPPLEMENTARY INFORMATION: EPA has established a public record for this decision which is available for inspection in the Public Information Reference Unit, EPA Library, Room M2404, 401 M St. SW., Washington, D.C. 20460.

This record includes the petition and comments submitted by Ford and EPA's analysis of the cost of wastestream segregation.

The Decision of the Administrator appearing below was sent to Ford. The Attachments referred to in the Decision have not been reproduced below. They are available for inspection in the Public Information Reference Unit.

Dated: January 13, 1981.

Douglas M. Costle,
Administrator.

Response to the Petition of Ford Motor Company for Reconsideration of the Electroplating Pretreatment Standards

Decision of the Administrator

I have been petitioned to reconsider the applicability of the Electroplating Pretreatment Standards for Existing Sources (40 CFR Part 413) to integrated facilities with combined wastestreams by either establishing a separate industrial category for automotive manufacturing or reopening the electroplating rulemaking for comment on the proper applicability of the electroplating standards in light of the Agency's combined wastestream formula (40 CFR 403.6(e)). The petition is denied.

I. Introduction

On May 15, 1980, Ford Motor Company (Ford) filed a Petition for Reconsideration of the Electroplating Pretreatment Standards on the grounds that EPA had not given sufficient consideration to how the electroplating standards would apply to facilities that combine electroplating wastestreams with other wastestreams. Ford argued that in order to give adequate consideration to this issue EPA should either create a separate pretreatment standard for the automotive industry, or reopen the electroplating rulemaking for comment on the proper applicability of the electroplating standards in light of the Agency's combined wastestream formula.

The Administrator has concluded that it is unnecessary to reconsider the electroplating regulation because the problem of how to apply categorical pretreatment standards, including the electroplating standards, to facilities with combined wastestreams has been fully considered and resolved by the revised combined wastestream formula in the General Pretreatment Regulations published elsewhere in today's **Federal Register.**

II. Background

The issue presented by Ford's petition arose from the proposal of a combined wastestream formula in proposed amendments to the General Pretreatment Regulation, 40 CFR Part 403, on October 29, 1979. (44 FR 62260.) The purpose of the formula was to provide a method for calculating pollutant limitations at industrial facilities where regulated process effluent is mixed with other wastestreams (either regulated or unregulated) prior to treatment. The formula proposed in October was originally included as part of the National Pretreatment Strategy which appeared as Appendix A to the June 26, 1978, General Pretreatment Regulation. The formula was moved from the Appendix to proposed § 403.6(e) of the regulation to formalize the resolution of this problem, and thereby, to eliminate uncertainty among POTWs, States, and affected industries, and to ensure consistent application nationwide.

A combined wastestream formula is primarily of importance to diversified multi-process industrial users of POTWs. These users, like Ford, frequently have a number of individual processes producing different wastestreams that are not regulated by a single categorical pretreatment standard or are not regulated at all. Many of these integrated facilities have combined process wastestreams and a number have already constructed combined waste treatment plants. These users often install a pretreatment system on the combined stream rather than install separate parallel systems on each individual stream. A combined wastestream formula permits a facility to mix wastestreams prior to treatment by providing it with alternative effluent limits for this combined discharge.

Ford, like some other industrial users, submitted extensive comments criticizing the combined wastestream formula proposed in October, 1979. In the General Pretreatment Regulation published today EPA has agreed with commenters that the proposed formula assumed that there was only one regulated process contributing to the mixed discharge. It also established a *de facto* zero discharge limit for the unregulated wastestreams being combined by not taking into account the presence of pollutants in those streams. As a result, Ford argued that the formula proposed by EPA would not permit combined treatment where process effluent was mixed with other wastewaters, because the combined stream limits were technologically unattainable in many instances.

Ford presented these criticisms in its comments on the proposed formula and in the comments attached to its petition for reconsideration.

EPA acknowledged the defects in its proposed formula and has published a final version which, as discussed more fully below, will permit combined treatment in most cases, although some restrictions are imposed on the combination of certain streams to protect against the dilution of wastewaters and combination of incompatible wastestreams. The Agency believes that this revised formula, which had not been finally determined at the time Ford's petition was filed, resolves the issues presented in Ford's petition for reconsideration of the electroplating pretreatment standards. For a response to Ford's technical argument see the preamble to the General Pretreatment Regulations published elsewhere in today's **Federal Register.**

III. The Final Combined Wastestream Formula

Ford's principal concern presented in its petition was that the combined wastestream formula, as proposed, would set limitations on combined streams that would be lower than the capability of treatment technology. By setting a new, stringent limit below treatability levels, Ford argued, EPA would in effect ban combined treatment. Integrated facilities already operating centralized treatment systems or using combined process sewers, might be obligated to segregate wastestreams in order to achieve pretreatment standards. If segregation of wastestreams were required, Ford argued, then EPA would have to include the cost of such stream segregation in its economic impact analysis for the electroplating standards. Accordingly, if EPA decided not to create a separate category for the automotive industry, then, Ford contended, EPA should at least reopen the electroplating rulemaking record for comment on the economic impact of the combined waste stream formula.

EPA believes that reopening the record is unnecessary because the final combined wastestream formula will make segregation of wastestreams unnecessary in most cases. The adopted formula sets the alternative concentration limit for each pollutant by mutiplying the categorical limit for a regulated stream by the flow of that stream and then adding the resultant products for all regulated wastestreams that are combined. This amount is then divided by the sum of the flow for each regulated streams. In statistical terms, a flow-weighted average of the categorical standards is taken over the regulated streams. If only regulated streams are being combined, this is all one would have to do to compute the alternate limit. However, if the user combines regulated with unregulated streams, to prevent inappropriate dilution, the resulting number is multiplied by a fraction the numerator of which is the total flow through the treatment system minus dilution streams such as noncontact cooling water. The denominator of this fraction is the total flow through the treatment facility. If the unregulated streams are not dilution streams as defined in the formula, the fraction become 1 and no further adjustment is made on the alternative limit. If an unregulated stream is a dilution stream, this fraction will adjust the alternative limit to account for the dilution that is taking place. Alternative mass-based limits may be calculated instead of concentration-based limits.

The effect of the formula can be summarized as follows: If two regulated streams are combined, the use of the formula will result in a new standard for the regulated pollutant somewhere in between the two categorical standards. If a regulated and an unregulated stream are combined, and the unregulated stream is not a "dilution stream," the pollutant standard for the combined stream will be the categorical standard for the pollutant in the regulated stream. If dilution streams such as non-contact cooling water are combined with regulated streams, the limitation for the combined stream becomes more stringent in order to avoid giving credit for dilution of the pollutants. Under this approach, segregation of waste streams will not be necessary unless dilution stream are combined with process streams prior to treatment, and the alternative pretreatment standard for the combined stream is below treatability levels. EPA expects that the number of plants required to segregate these streams will be relatively small because pretreatment facilities are unlikely to be sized to include treatment of dilution streams and because industrial users tend to take appropriate measures to reduce their discharges to the POTW in order to reduce user charges. According, it is unlikely that the problems presented by Ford in its petition will exist after using the new combined wastestream formula.

Nevertheless, in order to provide a complete response to Ford's petition, the Agency has considered Ford's request for either a separate category for the automotive industry or for a reopening of the record to consider the economic impact of the combined wastestream formula.

IV. Ford's Request for a Separate Category for the Automotive Industry

Ford's principal concern with respect to a separate automotive assembly category is that EPA regulate all operations at automotive plants under one pretreatment standard. The Agency believes that the combined wastestream formula has resolved the problem of providing uniform standards for automotive plants. If the plant combines wastestreams, it now has a method of computing an alternative limit so that, in most cases, the plant will not need to segregate treatment of each process stream. Moreover, the upcoming Metal Finishing regulations, which will establish BAT-level pretreatment standards, should be compatible with a combined treatment approach because they are likely to establish standards based on combined treatment of most wastestreams.

V. Ford's Request That the Agency Reopen the Electroplating Record for Comment in Light of the Combined Wastestream Formula

Ford's second request, in the alternative, is that the Agency reopen the electroplating record for comment in light of the combined wastestream formula. The principal reason for this request, as discussed in Ford's Comments, is to examine the economic impact that would result if integrated facilities were required to segregate regulated and unregulated process streams in order to comply with the pretreatment standards. As discussed previously, Ford argues that such segregation would be necessary under the October, 1979 proposed combined wastestream formula.

As discussed above, the final combined wastestream formula will, in most instances, obviate the need for segregation of process wastestreams. Thus, a reconsideration of economic impact is unnecessary. Nevertheless, EPA examined the data submitted by Ford in an effort to make a rough estimate of the economic impact that would result if all integrated facilities were required to segregate their wastestreams. Since the Agency believes that very few facilities will be forced to segregate, this estimate gives an exaggerated economic impact.

A detailed description of the approach taken in analyzing these costs is attached. (Attachment 1.) Our rough estimate indicates that 56 out of 4,700 plants might choose to divest their inhouse electroplating rather than segregate wastesteams. The analysis also indicates that only the very largest plants, i.e., those with flows greater than 500,000 gallons per day, would consider divestiture. As mentioned above, this estimate exaggerates the economic impact of wastestream segregation by assuming that all integrated facilities would segregate their wastestreams. Moreover, the cost per plant of wastestream segregation presented by Ford and used in EPA's analysis may also be too high. EPA's independent estimate of the cost per plant is less than one-fifth of the amount estimated by Ford. (See Attachment 2.)

This analysis leads EPA to conclude that the economic impact of stream segregation, even assuming that every integrated facility would be required to segregate, and the Ford's high costs per plant are correct, is not sufficently high to require a revised economic analysis or additional comment on this issue. This conclusion is strengthened by the existence of a combined wastestream formula that will make it unnecessary

for most plants to segregate their wastestreams.

In addition, a plant which must segregate its wastestreams, may be eligible for a fundamentally different factors (FDF) variance. The amended General Pretreatment Regulation published today provides that a variance may be given if data specific to an industrial user "indicate it presents factors fundamentally different from those considered by EPA in developing the limit at issue." 40 CFR § 403.13(b). The comment following § 403.13(d) notes that "[w]here an adjusted Pretreatment Standard has been calculated in accordance with § 403.6(e), the Industrial User may apply for a fundamentally different factors variance from this adjusted standard in accordance witht his section." Factors which may be considered fundamentally different include the nature or quality of pollutants contained in the raw waste load of the User's process wastewater; age, aize, land availability, and configuration as they relate to the User's equipment or facilities; processes employed; process changes; and engineering aspects of the application of control technology; and cost of complaince with required control technology. Such plant-specific issues are appropriately resolved by a variance request.

VI. Conclusion

For the reasons stated above, the Petition of Ford Motor Co. is denied.

Dated: January 13, 1981.

Douglas M. Costle,

Administrator.

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